



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 20, 1992

Ms. Amy Nickell Jacobs
Haynes and Boone, L.L.P.
1300 Burnett Plaza
Fort Worth, Texas 76102-4706

OR92-417

Dear Ms. Jacobs:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 16457.

The City of Coppell (the "city"), which you represent, has received a request for information relating to the evaluation of applicants for the rank of captain in the city fire department. Specifically, the requestor seeks copies of

[a]ll "Evaluation Factors for Applicants" forms and "Worksheets" filled in or prepared by the 3 member promotion review panel during its latest evaluation of applicants for the rank of Captain in the Coppell Fire Department . . . [including] the scores for each applicant on all parts of the evaluation which included, but may not be limited to: an Interview, a Situational, a Map Test, and a Written (Lesson Plan) Exercise.

You have submitted to us for review representative samples of the requested information, including various evaluation forms, simulation exercises, interview questions, an in-service training lesson plan, a street location test, a composite score sheet, and other evaluation documents. You claim that the requested information is excepted from required public disclosure by sections 3(a)(1) and 3(a)(11) of the Open Records Act.

Section 3(a)(1) of the Open Records Act excepts from required public disclosure "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." In Open Records Decision No. 353 (1982), this office held

that a city's authority to administer an examination for a master electrician's license included the authority to maintain the confidentiality of the examination or any information which might tend to reveal the content of the examination. *See also* Attorney General Opinions H-483, H-242 (1974); Open Records Decision No. 118 (1976). We presume for purposes of this opinion that the City of Coppell, a home-rule city, is legally empowered to administer examinations to applicants for the rank of captain in the city fire department. Accordingly, the requested test materials, including the fireground simulation exercises, the interview questions, the in-service training lesson plan, the street location test, and the handwritten notes indicating the applicant's responses to the fireground simulation exercises, are excepted from required public disclosure in their entirety under section 3(a)(1) of the Open Records Act.

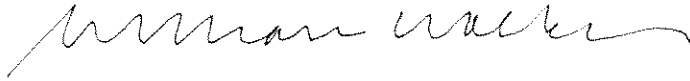
You also claim that some of the requested information is excepted from required public disclosure by section 3(a)(11) of the Open Records Act, which excepts memoranda and letters, but only to the extent that they contain advice, opinion, or recommendation intended for use in the entity's policy-making or deliberative process. Open Records Decision No. 466 (1987) at 1 (copy enclosed). However, facts and written observations of fact which are severable from material excepted under section 3(a)(11) must be disclosed. Open Records Decision No. 582 (1990). In Open Records Decision No. 565 (1990) at 13, this office held that the interview score worksheet and interview summary forms used in the evaluation of an applicant for public employment constituted advice, opinion, and recommendation.

We have examined the documents submitted to us for review and conclude that the evaluations recorded on the assessor evaluation forms and the composite score sheet constitute the advice, opinion, and recommendation of the assessor and may thus be excepted from required public disclosure by section 3(a)(11) of the Open Records Act. The forms themselves, however, reveal only the evaluation criteria and must be released absent the assessor evaluations.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with

a published open records decision. If you have questions about this ruling, please refer to OR92-417.

Yours very truly,



William Walker
Assistant Attorney General
Opinion Committee

WW/GCK/lmm

Ref.: ID# 16457
ID# 16491
ID# 16540
ID# 16573
ID# 16748

Enclosure: Open Records Decision No. 466

cc: Mr. Arthur H. Kwast
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